



## ***Texas Department of Insurance***

### ***Division of Workers' Compensation***

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## ***MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION***

### ***GENERAL INFORMATION***

#### **Requestor Name and Address**

VISTA HOSPITAL OF DALLAS  
4301 VISTA ROAD  
PASADENA TX 77504

#### **Carrier's Austin Representative Box**

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#### **Respondent Name**

INDEMNITY INSURANCE CO OF NORT

#### **MFDR Date Received**

April 10, 2006

#### **MFDR Tracking Number**

M4-06-5156-01

### ***REQUESTOR'S POSITION SUMMARY***

**Requestor's Position Summary Dated April 25, 2006:** "Carrier may reimburse at a 'per diem' rate for the hospital services if the total audited charges for the entire admission are below \$40,000, after the Carrier audits the bill pursuant to the applicable rules. However, if the total audited charges for the entire admission are above \$40,000, the Carrier shall reimburse using the Stop-Loss Methodology in accordance with the plain language of the rule contained in § 134.401(c)(6)(A)(iii). This rule does not require a hospital to prove that services provided during the admission were unusually extensive or unusually costly to trigger the application of the Stop Loss Methodology. It is presumed that the services provided were unusually extensive or unusually costly when the \$40,000 stop-loss threshold is reached. "

**Requestor's Supplemental Position Summary Dated October 27, 2011:** "Please allow this letter to serve as a supplemental statement to Vista's originally submitted request for dispute resolution in consideration of the Texas Third Court of Appeal's Final Judgment..."

**Amount in Dispute:** \$115,137.49

### ***RESPONDENT'S POSITION SUMMARY***

**Respondent's Position Summary Dated May 3, 2006:** "Please be advised that this firm represents the Carrier in the above referenced matter."

**Response Submitted by:** Smith & Carr, P.C.

**Respondent's Position Summary Dated May 25, 2006:** "Based on the documentation provided, the Carrier has taken the position that the Claimant has not produced any evidence supporting a finding that the services provided to the Claimant from August 29, 2005 to September 1, 2005, were unusually extensive such that the stop-loss method applies."

**Response Submitted by:** Smith & Carr, P.C.

**Respondent's Supplemental Position Summary Dated September 9, 2011:** "The referenced file has assigned to us for submission of a Supplementing Position Statement. To accomplish this we have submitted a Form DWC-153, requesting the MFDR File. We can file a position statement shortly after receipt of the file requested. Please allow an extension-20 days so that we may address the issues in this apparent claim for stop-loss reimbursement."

**Response Submitted by:** Downs Stanford, P.C.

**Respondent's Supplemental Position Summary Dated November 7, 2011:** "This file reflects quite plainly that the carrier timely disputed the matter on an extent of injury basis and that the ultimately, the very condition for which surgery was provided was determined not to be a component part of the compensable injury. For this reason alone, no payment is or was due to this provider."

**Response Submitted by:** Downs Stanford, P.C.

### ***SUMMARY OF FINDINGS***

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
August 29, 2005 through September 1, 2005	Inpatient Hospital Services	\$115,137.49	\$0.00

### ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.304, 17 *Texas Register* 1105, effective February 20, 1992, amended effective July 15, 2000 sets out the procedures for medical payments and denials
2. 28 Texas Administrative Code §133.305 and §133.307, 27 *Texas Register* 12282, applicable to requests filed on or after January 1, 2003, sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.
4. 28 Texas Administrative Code §134.1, 27 *Texas Register* 4047, effective May 16, 2002, sets out the guidelines for a fair and reasonable amount of reimbursement in the absence of a contract or an applicable division fee guideline.

The services in dispute were reduced/denied by the respondent with the following reason codes:

#### **Explanation of Benefits**

- W12 – Extent of injury, Not finally adjudicated

#### **Issues**

1. Was the request for medical fee dispute resolution filed in accordance with 28 Texas Administrative Code §133.305 and §133.307?
2. Are the disputed services eligible for medical fee dispute resolution under 28 Texas Administrative Code §133.307?

#### **Findings**

1. 28 Texas Administrative Code §133.305(a)(2) defines a medical fee dispute as "Medical Fee Disputes involve a dispute over the amount of payment for health care rendered to an injured employee and determined to be medically necessary and appropriate for treatment of that employee's compensable injury". 28 Texas Administrative Code §133.307(e)(2)(D) states "if the carrier has raised a dispute pertaining to liability for the claim, compensability, or extent of injury, in accordance with §124.2 of this title (relating to Carrier Reporting and Notification Requirements), the request for an IRO will be held in abeyance until those disputes have been resolved by a final decision of the commission". Review of the submitted documentation finds that the

Contested Case Hearing Decision and Order of February 21, 2006 found that the “compensable injury of June 4, 2005 does not include lumbar spondylolisthesis”. The Operative report indicates that the spinal surgery was for treatment of claimant’s “Lumbar disk disease, L4-5, with grade 2 spondylolisthesis as well as iliac vein injury”. Because the lumbar spondylolisthesis was found to be non-compensable, the medical fee dispute resolution lacks jurisdiction to review per 28 Texas Administrative Code §133.305(a)(2).

2. The requestor has failed to support that the disputed services are eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307.

### **Conclusion**

For the reasons stated above, the requestor has failed to establish that medical fee dispute resolution staff has any authority to consider and/or order any payment in this medical fee dispute. As a result, no amount is ordered.

## ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

_____	_____	8/28/2012
Signature	Medical Fee Dispute Resolution Officer	Date

_____	_____	8/28/2012
Signature	Health Care Business Management Director	Date

## ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**